

BILL LOCKYER, Attorney General
of the State of California
JOSE R. GUERRERO
Supervising Deputy Attorney General
BRENDA P. REYES, State Bar No. 129718
Deputy Attorney General
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5541
Facsimile: (415) 703-5480

Attorneys for Complainant

BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 1D-2002-63091

JAMES WILLIAM KARL
374 Carerra
Mill Valley, CA 94941

A C C U S A T I O N

Physical Therapist Assistant License No. AT 5230

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California (Board), Department of Consumer Affairs.

2. On or about September 21, 1998, the Board issued Physical Therapist Assistant License No. AT 5230 to James William Karl (respondent). The license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2006, unless renewed. There is no Board record of previous disciplinary action having been taken against this license.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws and regulations. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2609 of the Code states that:

“The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.”

5. Section 2660 of the Code provides, in pertinent part, that:

“The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

“

“(d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist or physical therapy assistant. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.”

6. Section 2661 of the Code states that:

“A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which substantially relates to the qualifications, functions, or duties of a physical therapist is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not

1 guilty, or setting aside the verdict of guilty, or dismissing the accusation,
2 information, or indictment.”

3 7. Title 16 of the California Code of Regulations, section 1399.20, states, in
4 relevant part, that:

5 “For the purposes of denial, suspension or revocation of a license,
6 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or
7 act shall be considered to be substantially related to the qualifications, functions
8 or duties of a person holding a license under the Physical Therapy Practice Act if
9 to a substantial degree it evidences present or potential unfitness of a person to
10 perform the functions authorized by the license in a manner consistent with the
11 public health, safety or welfare. Such crimes or acts shall include but not be
12 limited to the following:

13 “(a) Violating or attempting to violate, directly or indirectly, or assisting
14 in or abetting the violation of, or conspiring to violate any provision or term of the
15 Physical Therapy Practice Act.

16 “....

17 “(c) Violating or attempting to violate any provision or term of the
18 Medical Practice Act.”

19 **COST RECOVERY**

20 8. Section 2661.5 of the Code provides, in part, that the board may request
21 the administrative law judge to direct any licensee found guilty of unprofessional conduct to pay
22 to the board a sum not to exceed the actual and reasonable costs of the investigation and
23 prosecution of the case.

24 **FIRST CAUSE FOR DISCIPLINE**
25 (Conviction of a Crime)

26 9. On or about March 20, 2001, a misdemeanor complaint was filed against
27 respondent in *People v. James William Karl*, Marin County Superior Court No. CR118404A.
28 The complaint alleged, in Count 1, that on or about March 11, 2001, respondent committed the

1 crime of driving under the influence of alcohol in violation of Vehicle Code section 23152,
2 subdivision (a); and, in Count 2, alleged respondent committed the crime of driving a vehicle
3 while having .08% and more, by weight, of alcohol in his blood in violation of Vehicle Code
4 section 23152, subdivision (b).

5 10. On or about August 9, 2001, respondent entered a plea of guilty to Count 1
6 of the complaint in Case No. CR118404A, and on that date he was convicted of a violation of
7 Vehicle Code section 23152, subdivision (a). Respondent was sentenced to, among other things,
8 three years probation; he was ordered to pay fines totaling \$1205.00; he was ordered to complete
9 a first-offender drinking driver program; and, his driving privileges were restricted for ninety
10 days.

11 11. The conviction set forth herein above in *People v. James William Karl*,
12 Marin County Superior Court No. CR118404A, is an offense substantially related to the
13 qualifications, functions, or duties of a physical therapist assistant. Therefore, cause for
14 discipline exists under Business and Professions Code section 2260 (d).

15 **SECOND CAUSE FOR DISCIPLINE**
16 (Unprofessional Conduct)

17 12. The allegations of paragraphs 9 and 10, inclusive, are incorporated herein
18 as if fully set forth.

19 13. As a result of notification of respondent's conviction for driving under the
20 influence of alcohol, in or about June, July and October 2002, and August 2003, the Board sent
21 letters by certified mail to respondent at his address of record, and other addresses for respondent
22 obtained by investigation, requesting information and documents regarding the criminal
23 conviction and respondent's compliance with the terms of probation. Each letter notified
24 respondent that his failure to submit the requested documents could result in action being taken
25 against him and affect his ability to practice as a physical therapist in the State of California. No
26 response from respondent was received by the Board to any of the letters sent. Three of the
27 letters were returned to the Board unclaimed.

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1 14. On or about June 23, 2004, the Board again sent a letter by certified mail
2 to respondent at his address of record, 374 Carrera, Mill Valley, CA 94941, requesting
3 information regarding the criminal conviction. The letter was returned unclaimed. In or about
4 July 2004, respondent mailed the necessary documents and fees to the Board for renewal of his
5 physical therapist license. The envelope containing the renewal documents and fees received by
6 the Board was marked with respondent's address of record as the return address. On or about
7 April 5, 2005, the Board sent an inquiry to the Postmaster in Mill Valley, CA, requesting
8 verification that mail is being delivered to respondent at the Carrera address, or notification of a
9 new address, if available. Shortly thereafter, the Board received a response from the Postmaster
10 indicating that mail is being delivered to respondent at the address. On or about July 27, 2005,
11 the Board sent a letter by express mail to respondent at his address of record requesting
12 information and documents regarding the DUI conviction. The letter notified respondent that
13 "The Physical Therapy Board of California is mandated to protect consumers and in doing so all
14 convictions are investigated. Failure to submit the requested documents may result in action
15 being taken against you and may affect your ability to practice as a physical therapist in the State
16 of California." The letter requested the documents be submitted no later than August 26, 2005.
17 No response was received by the Board to the letter.

18 15. Respondent's license is subject to disciplinary action for unprofessional
19 conduct under Business and Professions Code section 2260, in that respondent has failed to
20 respond to numerous and repeated inquiries sent to his address of record for information and
21 documents regarding the criminal conviction he suffered for driving under the influence of
22 alcohol, which conviction the Board is authorized to investigate. Therefore, cause for discipline
23 exists.

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1 **PRAYER**

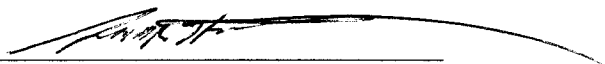
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Physical Therapy Board of California issue a
4 decision:

- 5 1. Revoking or suspending Physical Therapist Assistant License No. AT
6 5230, heretofore issued to respondent James William Karl;
- 7 2. Ordering respondent to pay the Physical Therapy Board of California the
8 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
9 Professions Code section 2661.5;
- 10 3. Taking such other and further action as deemed necessary and proper.
- 11

12 DATED: February 24, 2005

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15 
16 STEVEN K. HARTZELL
17 Executive Officer
18 Physical Therapy Board of California
19 Department of Consumer Affairs
20 State of California
21 Complainant

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